

REMARKS

This responds to the Office Action mailed on January 24, 2007. By this amendment, claim 5 was amended to remove a duplicative claim (same as claim 4). No claims were canceled, or added. As a result, claims 1-20 remain pending in this application. Applicant requests reconsideration of this application in view of the above amendment and the following remarks.

§102 Rejection of the Claims

A. Rejection: Claims 1-3 and 8 were rejected under 35 U.S.C. § 102(b) for anticipation by Steele (U.S. Patent No. 6,123,314).

B. Response: Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Claim 1 recites that the latch plate includes “...a tortuous path that directs the pin to a latching point after the latch plate is raised and then lowered a first time, and frees the pin from the latch point after the latch plate is raised and lowered a second time.” The Steele reference does not include the word tortuous in the specification, as revealed by an electronic search of the patent on the USPTO website. The Steele reference fails to teach a tortuous path, much less a latch plate that includes a tortuous path the directs the pin to a latching point after the latch plate is raised and then lowered a first time, and frees the pin from the latch point after the latch plate is raised and lowered a second time. The Steele reference does not teach a tortuous path that directs the pin to a latching point after raising and lowering the latch plate a first time. The path of Steele only directs the projection 16 (shown as a T-bolt in FIGs. 4A and 4B) to a point where

the bail 48 attached to a remote latch 44 is moved by hand over the projection/T-bolt. Even if the Examiner could successfully argue that the pin is moved to a latching position after raising and lowering the latch pin the first time, there is no teaching of freeing the pin from the latch point by raising and lowering the latch plate a second time. Once latched, the assembly can be raised and lowered forever without causing a freeing of the pin from the latch point. The latch 44 of Steele must be moved and the bail 48 removed to unlatch the pin. Therefore, there is no teaching of a latch plate that includes a tortuous path that directs the pin to a latching point after the latch plate is raised and then lowered a first time, and frees the pin from the latch point after the latch plate is raised and lowered a second time. As a result, claim 1 overcomes the Examiner's rejection under 35 USC § 102(b) as being anticipated by Steele (U.S. Patent No. 6,123,314).

Claims 2, 3 and 8 depend from claim 1 and include the limitations of claim 1 by their dependency. Since the Steele reference fails to teach each and every element of the invention, and also fails to teach all the elements arranged as in the claims, it is submitted that claims 2, 3 and 8 now also overcome the Examiner's rejection under 35 USC § 102(b) as being anticipated by Steele (U.S. Patent No. 6,123,314).

C. Rejection: Claims 15-18 were rejected under 35 U.S.C. § 102(e) for anticipation by Philistine (U.S. Patent No. 6,929,226).

D. Response: Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim*." *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Claim 15 recites that the latch plate includes "...a first cardioid-shaped plate..." The Philistine reference does not include a cardioid-shaped plate. An electronic search of the patent

on the USPTO website failed to yield any results on a word search for the terms cardoid or heart. In fact, there was no finding of any word that started with “car”. Therefore, there is no mention of the term cardoid. In addition, it should also be pointed out that this shape is defined in the Webster dictionary (see definition found in Webster’s New Collegiate Dictionary. copyright 1976 on page 168) by the following mathematical formula:

$$p = a (1 + \cos \theta)$$

where p is the dimension in polar coordinates.

This mathematical description is also not taught by the Philistine reference. Simply put, the Philistine reference fails to teach the cardoid shaped plate recited in claim 15. As a result, claim 15 overcomes the Examiner’s rejection under 35 USC § 102(e) as being anticipated by Philistine (U.S. Patent No. 6,929,226).

Claims 16-18 depend from claim 15 and include the limitations of claim 15 by their dependency. Since the Philistine reference fails to teach each and every element of the invention, and also fails to teach all the elements arranged as in the claims, it is submitted that claims 2, 3 and 8 now also overcome the Examiner’s rejection under 35 USC § 102(b) as being anticipated by Philistine (U.S. Patent No. 6,929,226).

Furthermore, claims 16 and 17 further recite that the cardoid-shaped plate is assymetrical. The plate of Philistine (U.S. Patent No. 6,929,226) is symmetrical. This is most evident when looking at FIG. 1 and more specifically the shape of the plate with respect to the x-axis and the y-axis shown in that figure. This is further evidence that claims 16 and 17 overcome the Examiner’s rejection under 35 USC § 102(b) as being anticipated by Philistine (U.S. Patent No. 6,929,226).

E. Rejection: Claims 19 and 20 rejected under 35 U.S.C. § 102(e) for anticipation by Halas (U.S. Patent No. 6,631,885).

F. Response: Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration. *In re Dillon* 919 F.2d 688, 16 USPQ 2d 1897, 1908 (Fed. Cir. 1990) (en banc), cert. denied, 500 U.S. 904 (1991). It is not enough, however, that the prior art reference discloses all the claimed elements in isolation. Rather, “[a]nticipation requires

the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Claim 19 recites "A method for positioning equipment on a monopole comprising: elevating an equipment capsule with a cable; passing a portion of the equipment capsule over a cam surface to a load bearing point; and relaxing the cable" The Halas reference does not teach a monopole, or an equipment capsule. Therefore the equipment capsule is not elevated or passed over a cam surface as required by the claim. In fact, nothing is elevated in Halas. Halas teaches lowering a tree branch after it has been cut, and there is no teaching of relaxing the cable in Halas. Tension must be maintained or the cut tree limb will crash to the ground. As a result, claim 19 overcomes the Examiner's rejection under 35 USC § 102(e) as being anticipated by Halas (U.S. Patent No. 6,631,885).

Claims 20 depends from claim 19 and includes the limitations of claim 19 by its dependency. Since the Halas reference fails to teach each and every element of the invention, and also fails to teach all the elements arranged as in the claims, it is submitted that claim 20 now also overcomes the Examiner's rejection under 35 USC § 102(b) as being anticipated by Halas (U.S. Patent No. 6,631,885).

Allowable Subject Matter

Claims 4-7 and 9-14 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The allowance of claims 4-7 and 9-14 are noted with appreciation. Applicant did not amend the claims as suggested by the Examiner since Applicant feels that the claims from which claims 4-7 and 9-14 depend are now also in condition for allowance.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6977 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

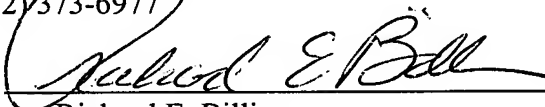
In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record are relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

Respectfully submitted,
JOHN ASH
By his Representatives,
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6977

Date

4/12/07

By



Richard E. Billion
Reg. No. 32,836

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 12th day of April 2007.

PATRICIA A. HULTMAN

Name

Signature